

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JAMES EZELL, III,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-23-608-D
)	
DAVID COLE, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff James Ezell, III, a state prisoner, brought this civil rights action under 42 U.S.C. § 1983 against twelve Defendants. However, on January 18, 2024, the Court adopted the Report and Recommendation [Doc. No. 30] issued by United States Magistrate Judge Shon T. Erwin and dismissed Plaintiff’s claims against all Defendants except LCF Lt. Mr. Rogers and LCF Unit Manager Mr. West. *See* 1/18/2024 Order [Doc. No. 34]. All that remains is Plaintiff’s First Amendment retaliation claim against Defendants Rogers and West. *Id.*

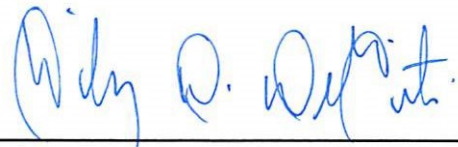
On December 12, 2024, Judge Erwin issued a second Report and Recommendation, wherein he recommends that the Court deny Plaintiff’s motions for a temporary restraining order (“TRO”) [Doc. Nos. 72, 74]. *See* Rep. and Rec. [Doc. No. 76]. Specifically, Judge Erwin notes that Plaintiff’s motions “mostly contain declarations and allegations of wrongdoing by defendants not currently named in this matter.” *Id.* at 2. Further, “Plaintiff has not suggested any efforts to notify any of the named Defendants of his motions or

provided any reasons for his inability to provide such notice,” as required by Fed. R. Civ. P. 65(b). *Id.*

Plaintiff timely filed an Objection [Doc. No. 77]. In his Objection, Plaintiff appears to largely rehash arguments included in the underlying motions. Although it could be argued that Plaintiff generally objects to the denial of relief, he offers no persuasive argument or authority warranting issuance of a TRO under these circumstances.¹ The Court thus agrees with Judge Erwin that Plaintiff’s submissions do not warrant granting the extraordinary relief of a TRO.

The Court has reviewed the entirety of the Report and Recommendation, as well as the case record, and fully concurs in the Report and Recommendation. Therefore, the Court, having conducted a *de novo* review, finds that Plaintiff’s Objection should be overruled, and hereby **ADOPTS** the Report and Recommendation [Doc. No. 76] in its entirety. Plaintiff’s motions [Doc. Nos. 72, 74] seeking a TRO are **DENIED**. This matter remains under referral to Judge Erwin.

IT IS SO ORDERED this 6th day of January, 2025.



TIMOTHY D. DeGIUSTI
Chief United States District Judge

¹ To the extent Plaintiff attempts to introduce new arguments in his Objection, the Court notes that “[i]ssues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.” *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996).